

IN THE CHANCERY COURT FOR LEWIS COUNTY
AT HOHENWALD, TENNESSEE

IN RE:)
)
SENTINEL TRUST COMPANY) No. 4781
)
)

**COMMISSIONER-IN-POSSESSION'S PETITION FOR APPROVAL OF
PAYMENTS TO BOND HOLDERS**

The Commissioner of the Tennessee Department of Financial Institutions, as Commissioner-in-possession of Sentinel Trust Company ("Sentinel"), by and through his counsel of record, the Attorney General and Reporter, hereby petitions this Court for approval of certain payments due June 1, 2004 to bondholders as set forth more fully herein.

Sentinel Trust Company ("Sentinel") is a Tennessee corporation engaged in fiduciary activities and subject to regulation by the Commissioner under the Tennessee Banking Act pursuant to Tenn. Code Ann. § 45-1-124. On May 3, 2004, the Commissioner issued an Emergency Order directing Sentinel to cease and desist from engaging in unsafe and unsound banking practices.¹ That Order found that Sentinel had used pooled fiduciary funds to provide operating capital for non-related defaulted bond issues, thereby creating a fiduciary cash shortfall that greatly exceeded Sentinel's current operating capital and that Sentinel had failed to reconcile

¹A copy of this Order is attached hereto as Exhibit 1 and incorporated herein by this reference.

fiduciary cash and corporate cash accounts in a timely and accurate fashion and to keep accurate books and records.²

Sentinel was unable to provide the Commissioner with the additional capital and a capital plan, as required by the Emergency Cease and Desist Order, to demonstrate how Sentinel would make the pooled fiduciary account whole. Accordingly, on May 18, 2004, the Commissioner of the Tennessee Department of Financial Institutions (“Commissioner”) took emergency possession of Sentinel pursuant to Tenn. Code Ann. §§ 45-2-1502(b)(2) and (c)(1). That same day, the Commissioner appointed Receivership Management, Inc. as the Receiver for Sentinel Trust Company pursuant to Tenn. Code Ann. § 45-2-1502(b)(2).

At this time, based upon Sentinel’s records and statements from management, it is believed that the shortfall in the pooled fiduciary account is between \$7 and \$9 million. As set forth in the Emergency Order, this shortfall resulted from Sentinel’s practice of “borrowing” from the pooled fiduciary account. Specifically, Sentinel, in its role as indenture trustee for various high-yield unregistered municipal and corporate bonds, would fund various expenses relative to defaulted bond issues (*e.g.*, insurance, security, legal and other professional fees) reportedly in an effort to protect the value of the underlying collateral. While the governing indenture and/or bondholder indemnification usually provided for the reimbursement of these expenses from the proceeds of the sale of the collateral, Sentinel did not have adequate corporate liquidity to fund these expenses. Accordingly, Sentinel would “borrow” from other non-related

²*Id.*

bond issues (*i.e.*, the pooled fiduciary account) to fund these expenses, thus resulting in the shortfall.³

Since taking possession, the Commissioner, through his appointed Receiver, has endeavored to analyze the funding requirements of all bond issues to which Sentinel Trust Company serves as a fiduciary, including but not limited to, Trustee, Registration Agent, Escrow Agent and Paying Agent. During the course of that analysis, the Commissioner has determined that there are at least twenty-nine (29) bond issues for which Sentinel is either the paying agent or trustee, which have interest and/or principal payments due *June 1, 2004*. Specifically, there are twenty-four (24) municipal bond issues⁴, for which Sentinel is the paying agent and registrar, and five (5) “corporate” bond issues for which Sentinel is the corporate trustee.⁵ Failure to make the June 1 interest and/or principal payments on these bond issues will almost certainly result in placing them in default.

With respect to the twenty-four municipal bond issues, the Commissioner has determined that the entirety of the funding necessary for the June 1 payments for twenty (20) of these bond issues is still due from those issuers.⁶ Assuming that these monies are timely received, then the Commissioner will be able to make the June 1 interest and/or principal payments for these twenty municipal bond issues in full without having to use funds from the pooled fiduciary account. However, with the remaining four municipal bond issues, there is the potential that the

³See Exhibit 1.

⁴The issuer of these twenty-four municipal bond issues are all county and/or municipal governments located in Tennessee.

⁵See Affidavit of Wade McCullough attached hereto as Exhibit 2 and incorporated herein by this reference.

⁶*Id.* This information is set forth in the spreadsheet attached to Mr. McCullough’s affidavit.

Commissioner will need to use funds from the pooled fiduciary account in order to make the June 1 payments in full so as to avoid placing these issues in default.

Two of these municipal bond issues are from Benton County and two are from Wayne County. Sentinel's records indicate that a portion of the June 1 payment is still to be received from the counties, while the remainder is either in an investment or escrow account.

Specifically, Sentinel's records show as follows:

Name of Municipal Bond/#	Payment Due 6/1/04	Money due from Muni./Escrow- Invest. Acct.
Benton County "96"/#73	\$175,302.50	\$29,965 due from county \$145,337.50 due from Escrow-Investment SLGs. 51% 6-1-04 mat.date
Benton County "98"/#118	\$70,112.50	\$13,408.75 due from county \$56,703.75 from Escrow - To be verified
Wayne County /#154	\$182,088.75	\$73,512.50 due from county \$108,576.25 from pooled Fiduciary account
Wayne County/#173	\$162,050.00	\$56,740 due from county \$105,310.00 from pooled Fiduciary account ⁷

As noted, the Commissioner is still in the process of verifying the escrow/investment accounts which would provide additional funds for the June 1, 2004 payments due on these four bonds. Based upon the information received to date from Sentinel's records and accounts, however, the Commissioner has determined that approximately \$300,000 would be needed from

⁷See Exhibit A to Affidavit of Wade McCullough, Exhibit 2.

the pooled fiduciary account in order to make the June 1 payments and prevent these bond issues from being placed into default.

With respect to the five (5) “corporate”⁸ bond issues, Sentinel’s records reflect that while some funds may still be due from the issuers, each of these bond issues should have sufficient funds on deposit with Sentinel to make the June 1 interest and/or principal payments in full.

Specifically, Sentinel’s records show the following:

Name of Corporate Bond	Payment Due 6/1/04	Funds Due from Issuer	Funds on Deposit as of 5/18/04
City of Jacksonville First Mortgage Revenue Bond Series 1994 A & B - Atrium of Jacksonville Ltd. Project \$2,000,000 par	\$76,693.75	\$31,138.64	\$131,372.05
Health, Educational and Housing Facilities Board of the City of Chattanooga, TN Tax Exempt Revenue Bond Series 1999 A & B Barbizon/Park Village Project \$2,615,000 par	\$91,775.00	\$1,348.85	\$212,096.71
City of Hiawatha, Kansas Health Care Facilities Revenue Bond Series 1999 A & B Maple Height Rehabilitation and Nursing Center \$2,080,000 par	\$107,431.25	\$0	\$216,022.07
City of Niceville, Florida Industrial Development Revenue Refunding Bond Series 1992 \$2,205,000 par and	\$53,277.25	\$14,018.91	\$107,883.69

⁸These bonds are actually municipa bonds issued for the benefit of a private entity and are paid only from the revenues of that entity. For clarity purposes, however, they will be referred to as “corporate” bonds herein.

City of Niceville, Florida First Mortgage
Taxable Bond Series 1992
Okaloosa Health Care Ltd. Facility
\$1475,000 par

Health and Educational Facilities Board Of Carroll County, Tennessee First Mortgage Revenue Bond Series 1996 Carriage Crossing LLC project ⁹	\$141,793.75	\$3,235.00	\$147,542.09
--	--------------	------------	--------------

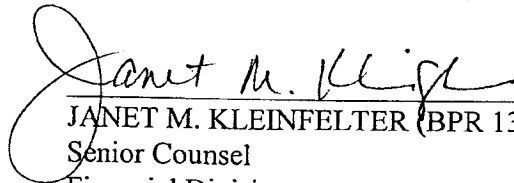
Thus, even if no further funds are received from the issuers, Sentinel's records reflect that each of these bond issues should have sufficient funds on deposit in Sentinel's pooled fiduciary account to meet the June 1 payments. However, as noted above, because of Sentinel's practice of "borrowing" from non-related bond issues to fund various expenses of defaulted bond issues, a shortfall of \$7-9 million exists in the pooled fiduciary account. The total amount needed from the pooled fiduciary account for the June 1 interest and/or principal payments on these corporate issues is \$420,842.88. Clearly, payment of this amount from the pooled fiduciary account will further reduce the amount of funds remaining in that account. While the Commissioner, through his appointed Receiver, is working diligently to recover the shortfall from all available sources (*e.g.*, defaulted bond issuers, corporate assets, indemnification agreements, *etc.*) and hopes such efforts to be successful, the Commissioner cannot at this time guarantee that the full amount of the shortfall will be recovered and the pooled fiduciary account made whole. It is almost certain, however, that if the Commissioner, through his appointed Receiver, does not make the June 1 payments on these five corporate bond issues, they will be placed in default.

⁹See Exhibit B attached to Affidavit of Wade McCullough, Exhibit 2.

Accordingly, the Commissioner hereby requests this Court's approval to use funds in Sentinel's pooled fiduciary account: (1) to make the June 1 interest and/or principal payments on the five corporate bond issues for which Sentinel is the corporate trustee, as set forth herein, and (2) to make payments on the four municipal bond issues for which Sentinel is the paying agent, as is necessary.

Respectfully submitted,

PAUL G. SUMMERS
Attorney General and Reporter



JANET M. KLEINFELTER (BPR 13889)
Senior Counsel
Financial Division
425 5th Avenue North
Nashville, TN 37243
(615) 741-7403

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Petition has been sent by first class U.S. Mail and/or facsimile transmission to:

Kathryn R. Edge
Miller & Martin
1200 First Union Tower
150 Fourth Avenue N.
Nashville, TN 37219-2433
[FAX] (615) 256-8197

William H. Farmer
Farmer & Luna
333 Union Street
Suite 300
Nashville, TN 37201
[FAX] (615) 254-7123

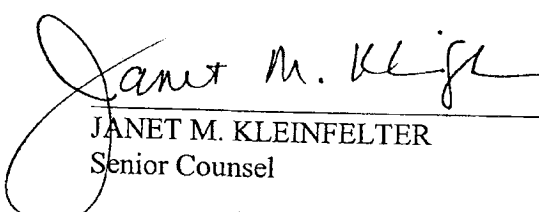
Danny Bates
205 Bastin Road
Hohenwald, Tennessee 38462

Donald Schwendimann
306 W. Main Street
P.O. Box 366
Hohenwald, TN 38462

Cecil Branstetter
Branstetter, Kilgore, Stranch & Jennings
227 Second Avenue North
Nashville, TN 37201
[FAX] (615) 255-5419

and has been posted on the Tennessee Department of Financial Institutions official website this 26th day of May, 2004.

I further hereby certify that a copy of the foregoing Petition has been sent to Bloomberg News with the request that it be posted on its website (Bloomberg.com), this 26th day of May, 2004.



JANET M. KLEINFELTER
Senior Counsel